



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

HAZEL STOUDEMIRE,
Petitioner,

vs.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS and WARDEN, Lee
Correctional Institution,
Respondents.

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CIVIL ACTION NO. 8:08-03866-HFF-BHH

ORDER

This case was filed as a 28 U.S.C. § 2254 action.* The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Respondents' motion for summary judgment be granted and Petitioner's claims be dismissed with prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo

*As noted, Petitioner petitions the Court pursuant to 28 U.S.C. § 2254, which allows a district court to "entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." However, as this Court is constrained to liberally construe pro se pleadings such as this, the petition has been considered as more appropriately filed pursuant to § 2241.

determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on June 11, 2009, and the Clerk of Court entered Petitioner's objections on July 22, 2009. The Court has exhaustively reviewed Petitioner's twenty-two page submission, but finds the objections to be without merit. Therefore, the Court will enter judgment accordingly.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report to the extent that it does not contradict this Order and incorporates it herein. Therefore, it is the judgment of the Court that Respondents' motion for summary judgment be **GRANTED** and Petitioner's claims be **DISMISSED** with prejudice.

IT IS SO ORDERED.

Signed this 23rd day of July, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.